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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PRICE KANE, LLC; PRICE PASCO,
LLC; PRICE PROPERTIES, LLC; PC
ORCHARDS, LLC; BM PARKER
HEIGHTS, LLC; BM MAPLELEAF,
LLC; BM MAYDAY, LLC; and BM
GAP, LLC;

Plaintiffs,

v.

THE FARM SERVICE AGENCY of
the UNITED STATES DEPARTMENT
OF AGRICULTURE; THE UNITED
STATES DEPARTMENT OF
AGRICULTURE; and THOMAS J.
VILSACK, in his capacity as Secretary
of the United States Department of
Agriculture;

Defendants.

Case No.:

COMPLAINT FOR DAMAGES

Plaintiffs Price Kane, LLC; Price Pasco, LLC; Price Properties, LLC; PC
Orchards, LLC; BM Parker Heights, LLC; BM Mapleleaf, LLC; BM Mayday, LLC;
and BM Gap, LLC (“Plaintiffs”), by its undersigned counsel, hereby complains
against Defendants, The Farm Service Agency of the United States Department of

1 Agriculture; The United States Department of Agriculture; and Tom Vilsack
2 (“Defendants”), as follows:

3 **COMPLAINT FOR JUDICIAL REVIEW, DECLARATORY RELIEF, AND**
4 **INJUNCTIVE RELIEF**

5 COME NOW the Plaintiffs, Price Kane, LLC, Price Pasco, LLC, Price
6 Properties, LLC, PC Orchards, LLC, BM Parker Heights, LLC, BM Mapleleaf,
7 LLC, BM Mayday, LLC, and BM Gap, LLC, (“Plaintiffs”) by and through the
8 undersigned Counsel and for their Complaint for Judicial Review, Declaratory
9 Relief, and Injunctive Relief do state as follows:

10 **I. INTRODUCTION**

11 1. The Plaintiffs bring this action for Judicial Review, Declaratory Relief,
12 and Injunctive Relief, pursuant to the Administrative Procedure Act (APA), 5 U.S.C.
13 § 551, *et seq* along with 7 U.S.C. § 6999, which provides for Judicial Review of all
14 final determinations of the National Appeals Division of the United States
15 Department of Agriculture.

16 2. The Defendants, Farm Service Agency, United States Department of
17 Agriculture and Tom Vilsack, (“Defendants”) have issued administrative
18 determinations adverse to the Plaintiffs. These adverse administrative
19 determinations are common to all Plaintiffs as they are based on the Defendants
20 erroneous and arbitrary application of program payment “attribution” regulations.
21 Plaintiffs now seek Judicial Review of the Defendants’ administrative

1 determinations that they were ineligible to receive certain payments available under
2 the Coronavirus Food Assistance Program (CFAP-1 and CFAP-2) (hereinafter
3 “CFAP”). The Defendants’ administrative actions adverse to the Plaintiffs were
4 based on erroneous factual findings as well arbitrary and capricious decision-
5 making.

6 3. All of the Plaintiffs contest the Defendants’ decision-making as to their
7 eligibility to receive certain CFAP payments. Plaintiffs BM Parker Heights, LLC,
8 BM Mapleleaf, LLC, BM Mayday, LLC, and BM Gap, LLC, will argue to this Court
9 that the Defendants’ decision as to the amount of CFAP payments owed these
10 entities were based on the erroneous attribution of Coronavirus Food Assistance
11 Program (CFAP) payments to BM Administrative Services, Inc. and BM Land Co.,
12 LLC. This erroneous attribution was based on the incorrect Agency determination
13 that these entities were second level “entities,” as defined by USDA regulations.
14 Plaintiffs Price Kane, LLC, Price Pasco, LLC, Price Properties, LLC, and PC
15 Orchards, LLC, were completely denied CFAP payments based on the Defendants
16 arbitrary and erroneous application of the “attribution” regulations. Price Kane,
17 LLC, Price Pasco, LLC, Price Properties, LLC, and PC Orchards, LLC, specifically
18 contest the Defendants’ finding that ownership in these Plaintiffs did not vest in
19 individuals at the “fourth level” of ownership.

1 4. The aforementioned determinations of the United States Department of
2 Agriculture have resulted in the denial of CFAP payments to the Plaintiffs.

3 5. The Plaintiffs ask for a declaratory ruling by this Court that Defendants
4 erred in finding that the Plaintiffs were not eligible to receive CFAP payments. The
5 Plaintiffs request a judgment that the adverse determinations were in error, arbitrary,
6 and capricious. The Plaintiffs further request that the Court enter a Judgment that
7 Plaintiffs were eligible to receive CFAP payments in 2020 and that the Court Order
8 USDA to make these payments to the Plaintiffs.

9 6. The Plaintiffs request that this Court enjoin Tom Vilsack, Secretary of
10 the United States Department of Agriculture, from withholding the payment of any
11 CFAP benefits from the Plaintiffs for the year 2020.

12 **II. JURISDICTION AND VENUE**

13 7. This Court has jurisdiction over the subject matter of this action
14 pursuant to 7 U.S.C. § 6999 (Judicial Review of the USDA National Appeals
15 Division); 28 U.S.C. § 1331 (Federal Question); § 2201 (Authorizing Declaratory
16 Relief); § 2202 (Authorizing Injunctive Relief); and 5 U.S.C. § 702 (Providing for
17 Judicial Review of Agency Action under the Administrative Procedure Act).

18 8. The Administrative Procedure Act provides a right to judicial review to
19 one suffering legal wrong because of agency action. Final determinations of the
20 United States Department of Agriculture's National Appeals Division are
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1 reviewable by any United States District Court of Competent Jurisdiction in
2 accordance with Chapter 7 of Title 5. 7 U.S.C. § 6999.

3 9. Venue in this Judicial District is proper under 28 U.S.C. §1391(b)(2),
4 because a substantial part of the events or omissions giving rise to the claim occurred
5 in this Judicial District as well as under 5 U.S.C. § 703.

6 **III. PARTIES**

7 10. Plaintiffs are Washington limited liability companies which operate
8 farming operations.

9 11. The Defendant, United States Department of Agriculture, through its
10 Farm Service Agency (FSA), is responsible for the administration of the CFAP
11 benefits which are the subject of this Action.

12 12. The Defendant, United States Department of Agriculture, manages the
13 Farm Service Agency, the agency with primary responsibility for the administration
14 of Federal Farm Programs including the CFAP payments which is at issue in this
15 litigation.

16 13. The Defendant, Tom Vilsack, is the Secretary of the USDA, and
17 oversees the USDA's administration of Federal Farm Programs. He is sued in his
18 official capacity only.

1 **IV. FACTUAL BACKGROUND**

2 **A. Overview**

3 14. This case comes before the Court on appeal from final determinations
4 by the National Appeals Division of the United States Department of Agriculture
5 (USDA) where USDA held the 2020 Coronavirus Food Assistance Program (CFAP)
6 benefits (payments) were properly denied the Plaintiffs. The Plaintiffs contend that
7 such determinations of USDA were erroneous, arbitrary and capricious, an abuse of
8 discretion and otherwise not in accordance with law and should therefore be
9 overturned by this Court in accordance with the Standards of Judicial Review set
10 forth in the applicable statutes and the Administrative Procedure Act.

11 15. The Defendants implemented the Coronavirus Food Assistance
12 Program (CFAP) to assist eligible producers of commodities, including specialty
13 crops, that were significantly impacted by the Coronavirus (COVID-19) pandemic.
14 See 7 C.F.R. § 9.1. This program provided for payments which were intended to
15 help offset market price declines and increased marketing costs resulting from the
16 COVID-19 pandemic.

17 16. The present controversy is a dispute between eight limited liability
18 companies and the Defendants which concerns the Defendants' refusal to provide
19 certain CFAP benefits to these Plaintiffs. The Defendants denied Plaintiffs' CFAP
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1 benefits based on an erroneous application of the attribution of payment rules at 7
2 C.F.R. § 1400.105.

3 17. Plaintiffs' CFAP benefits were denied on two bases. First, Plaintiffs
4 Price Kane, LLC, Price Pasco, LLC, Price Properties, LLC, and PC Orchards, LLC,
5 were denied CFAP payments on the basis that ownership in these entities were held
6 by "other legal entities" at the fourth "ownership level." Second, Plaintiffs BM
7 Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday, LLC, and BM Gap, LLC,
8 were denied CFAP benefits due to the Defendants' improper categorization of two
9 separate entities (BM Land Co., LLC, and BM Administrative Services, Inc.) as
10 "legal entities." This incorrect attribution of program payments to BM Land Co.,
11 LLC, and BM Administrative Services, Inc. resulted in the denial of CFAP Benefits
12 to BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday, LLC, and BM Gap,
13 LLC.

14 18. In regard to Plaintiffs Price Kane, LLC, Price Pasco, LLC, Price
15 Properties, LLC, and PC Orchards, LLC, the primary issue in this case is whether
16 ownership of the Plaintiffs is held by "persons" at or before the fourth level of
17 ownership, as Defendants have construed their regulations to bar payment to entities
18 where ownership does not vest in "persons," prior to the fourth level of ownership.
19 At issue in the present controversy are questions of whether the Defendants properly
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1 interpreted and applied the rules and regulations guiding the CFAP Program as well
2 as whether the Defendants erred in their underlying factual determinations.

3 19. In regard to Plaintiffs BM Parker Heights, LLC, BM Mapleleaf, LLC,
4 BM Mayday, LLC, and BM Gap, LLC, the primary issue is whether the Defendants
5 should have attributed payments to BM Administrative Services, Inc. and BM Land
6 Co., LLC. The Appellants argue that the Agency erred in treating BM Land Co.,
7 LLC, and BM Administrative Services, Inc as “legal entities” for payment
8 attribution purposes. These entities are, in fact, pass through organizations which
9 do not qualify for “legal entity” status under the applicable regulations. Again, this
10 Court is faced with questions of whether the Defendants properly interpreted and
11 applied the rules and regulations guiding the CFAP Program as well as whether the
12 Defendants erred in their underlying factual determinations.

13 **B. Facts Relating to Plaintiffs Price Kane, LLC, Price Pasco,**
14 **LLC, Price Properties, LLC, and PC Orchards, LLC.**

15 20. These Plaintiffs are all Washington limited liability companies which
16 operate apple, pear, and cherry farming operations. The FSA has determined that
17 all of the Appellants are “actively engaged in farming” and generally eligible for
18 farm program payments and CFAP benefits.

19 21. The membership units in Price Kane, LLC, Price Pasco, LLC, Price
20 Properties, LLC, and PC Orchards, LLC are held by a legal entity- Price Cold
21 Storage & Packing Company, LLC, a Washington LLC (99.99%), and an individual-

1 Robert Price (0.01%). Price Cold Storage Holdings, LLC, is another Washington
2 limited liability company and the sole member of Price Cold Storage & Packing
3 Company, LLC. Price Cold Storage Holdings, LLC, owns no land, agricultural
4 commodities, products, or livestock. Price Cold Storage Holdings, LLC, similarly
5 produces no agricultural commodities, products, or livestock. Price Cold Storage
6 Holdings, LLC, is owned by the 2012 Price Descendants Irrevocable Trust and
7 Robert Price. The individual beneficiaries of the 2012 Price Descendants
8 Irrevocable Trust are Jamie Price and Tyler Price.

9 22. In 2020, Plaintiffs each filed a 2020 CFAP Application. Plaintiffs filed
10 all other relevant paperwork to participate in the program, including a Form CCC-
11 902 “Farm Operating Plan” for program year 2020 and a Form CCC-901 “Member’s
12 Information” showing their ownership structure.

13 23. In 2020, employees of the Defendant Farm Service Agency notified
14 Price Kane, LLC, Price Pasco, LLC, Price Properties, LLC, and PC Orchards, LLC
15 that CFAP payments owed to these Plaintiffs were reduced to “zero” based upon the
16 conclusion that ownership of the Plaintiffs did not vest in an eligible individual
17 person by the fourth level of ownership. Plaintiffs argue that this factual conclusion
18 was erroneous and arbitrary.

1 24. Per the applicable regulation governing “attribution of payments,”
2 attribution of payments made to legal entities “will be tracked through four levels of
3 ownership in legal entities.” See 7 C.F.R. § 1400.105.

4 25. Ownership in Plaintiffs Price Kane, LLC, Price Pasco, LLC, Price
5 Properties, LLC, and PC Orchards, LLC, vests in eligible ‘persons’ by the fourth
6 level of ownership. One hundred percent (100%) of ownership in these Plaintiffs
7 vests in individuals- Robert Price, Jamie Price, and Tyler Price, by the fourth level
8 of ownership. Individuals Robert Price, Jamie Price, and Tyler Price are the fourth
9 “level of ownership” in these Plaintiffs.

10 26. The Defendants have incorrectly identified the Plaintiff entities
11 themselves as a “level of ownership.” The first “level of ownership” is not a Plaintiff
12 entity. Instead, the first level of ownership in each of these Plaintiffs would be Price
13 Cold Storage Packing Co., LLC, and Robert Price. The fourth “level of ownership”
14 is held in Jamie, Tyler, and Robert Price. Ownership vests in individuals by the
15 “fourth level,” and, for this reason, the underlying administrative determination
16 should be reversed by this Court. The Plaintiff payment entities are not a “level of
17 ownership.”

18 27. Even if the Defendants correctly determined that the Plaintiffs should
19 be considered a “level of ownership” for payment attribution purposes, reversal of
20 the administrative determination below is appropriate as the Agency has similarly
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1 erred in finding that Price Cold Storage Holdings, LLC, may be considered a third
2 “level of ownership in a legal entity” to which program payments should be
3 attributed. See 7 C.F.R. § 1400.503.

4 28. The Defendants have erroneously determined that Price Cold Storage
5 Holdings, LLC, is a third-level “legal entity,” as defined by the applicable Federal
6 Regulations. Plaintiffs’ position relies on the plainly stated definition of “legal
7 entity.” Per the applicable regulation, Legal entity “means an entity created under
8 Federal or State law **and** that: (1) Owns land or an agricultural commodity, product,
9 or livestock; or (2) Produces an agricultural commodity, product, or livestock. 7
10 C.F.R. § 1400.3.

11 29. Price Cold Storage Holdings, LLC, is not a “legal entity” as it does not
12 own any land, crops, or livestock, but is, instead, purely a pass-through entity set up
13 for corporate governance. Price Cold Storage Holdings, LLC, cannot be determined
14 to be a third level of ownership in a “legal entity” because it is not a “legal entity,”
15 as defined in the applicable regulations.

16 30. All Plaintiffs timely submitted an appeal to the USDA National
17 Appeals Division and exhausted all available administrative remedies prior to filing
18 this Complaint. On April 4, 2022, the Director issued a Director Review
19 Determination upholding the adverse determinations by the Farm Service Agency.
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C. Facts Relating to BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday, LLC, and BM Gap, LLC.

31. Plaintiffs BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday LLC, and BM Gap, LLC, are all Washington limited liability companies which operate apple, pear, and cherry farming operations. The FSA has determined that all of the Appellants are “actively engaged in farming” and generally eligible for farm program payments and CFAP benefits.

32. The membership units in each of these Plaintiffs are held by BM Land Co., LLC (99%), and BM Administrative Services, Inc. (1%) BM Land Co., LLC, and BM Administrative Services, Inc. are both owned by individuals Robert Price and Matthew Haak, along with the 2012 Price Descendants Irrevocable Trust. The beneficiaries of this Trust are Jamie Price and Tyler Price. BM Land Co., LLC, and BM Administrative Services, Inc. own no land, agricultural commodities, products, or livestock. BM Land Co., LLC, and BM Administrative Services, Inc. similarly produce no agricultural commodities, products, or livestock.

33. In 2020, these Plaintiffs each filed a 2020 CFAP Application. Plaintiffs filed all other relevant paperwork to participate in the program, including a Form CCC-902 “Farm Operating Plan” for program year 2020 and a Form CCC-901 “Member’s Information” showing their ownership structure.

34. In 2020, employees of the Defendants notified BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday, LLC, and BM Gap, LLC, of its

1 “attribution” determinations, including payment amounts to be made to these
2 Plaintiffs. These Plaintiffs assert that Defendants erred in the payment amounts due
3 to incorrect “attribution” of payments.

4 35. Plaintiffs BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday
5 LLC, and BM Gap, LLC, assert that the Agency has improperly categorized BM
6 Land Co., LLC, and BM Administrative Services, Inc., as “legal entities,” under the
7 applicable regulations. Both BM Administrative Services, Inc. and BM Land Co.,
8 LLC were attributed payments owed to each of these Plaintiffs. Per the applicable
9 regulations, payments should only be attributed to legal entities or individuals. BM
10 Administrative Services, Inc. and BM Land Co., LLC do not qualify as a “legal
11 entity,” as defined in the applicable Code of Federal Regulations, and, for this
12 reason, the Plaintiffs’ payments should not have been attributed to BM
13 Administrative Services, Inc. and BM Land Co., LLC. This attribution error by the
14 Defendants has resulted in the Plaintiffs receiving less than the proper amount of
15 CFAP payments.

16 36. All Plaintiffs timely submitted an appeal to the USDA National
17 Appeals Division and exhausted all available administrative remedies prior to filing
18 this Complaint. On April 5, 2022, the Director issued a Director Review
19 Determination upholding the adverse determinations by the Farm Service Agency.
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1 **V. CLAIMS FOR RELIEF**

2 **A. Judicial Review under the Administrative Procedure Act**

3 37. Section 702 of the Administrative Procedure Act (APA) entitles a
4 person suffering a legal wrong because of agency action, or adversely affected or
5 aggrieved by agency action within the meaning of a relevant statute, to judicial
6 review of the agency action. 5 U.S.C. § 702. A final determination of the National
7 Appeals Division is reviewable by any United States District Court of Competent
8 jurisdiction in accordance with Chapter 7 of the APA. 7 U.S.C. § 6999.

9 38. Section 706 of the APA authorizes this Court to “set aside agency
10 action, found to be . . . (A) arbitrary, capricious, an abuse of discretion, or otherwise
11 not in accordance with law.” 5 U.S.C. § 706(2)(A).

12 39. The final decision of the Defendants, as set forth in the Appeal
13 Determination, attached hereto as **Exhibit A** is arbitrary and capricious, constitutes
14 an abuse of discretion, and is otherwise not in accordance with law.

15 40. Specifically, Plaintiffs Price Kane, LLC, Price Pasco, LLC, Price
16 Properties, LLC, and PC Orchards, LLC, assert that the Agency Defendants erred in
17 the determination that (1) ownership interests at the fourth level were held by other
18 legal entities and (2) Price Cold Storage Holdings, LLC, may be considered a third
19 “level of ownership in a legal entity” and a legal entity for purposes of payment
20 attribution. The agency erred in its determination that ownership interests at the
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1 fourth level were held by other legal entities, because the agency incorrectly
2 classified the Plaintiffs as first-tier legal entities for determining attribution of
3 payments, rather than correctly determining that Plaintiffs are producers and
4 program recipients.

5 41. Plaintiffs BM Parker Heights, LLC, BM Mapleleaf, LLC, BM Mayday,
6 LLC, and BM Gap, LLC, were damaged by the Defendants incorrect attribution of
7 program payments, and the Defendants' erroneous categorization of BM Land Co.,
8 LLC, and BM Administrative Services, Inc., as "legal entities," under the applicable
9 attribution regulations.

10 42. No program rules or regulations were violated by these Plaintiffs. The
11 Defendants' determination that Plaintiffs were ineligible to receive certain CFAP
12 payments in 2020 was, therefore, not based upon a reasonable application of Federal
13 Regulations. USDA has failed to follow its own regulations in determining Plaintiffs
14 to be ineligible to receive CFAP payments.

15 43. The failure of USDA to follow its own regulations and procedures when
16 considering farm program eligibility rules not only constitutes arbitrary decision
17 making but also a violation of Federal Law pursuant to the *Accardi* doctrine. The
18 "*Accardi* doctrine provides that when an agency fails to follow its own procedures
19 and regulations, that agency's actions are generally invalid." *Nader v. Blair*, 549

1 F.3d 953, 962 (4th Cir. 2008) (*citing* United States ex rel. *Accardi v. Shaughnessy*,
2 347 U.S. 260, 268 (1954)).

3 44. As a result, the determination of USDA that Plaintiffs were not entitled
4 to receive all available CFAP payments in the year 2020, due to an incorrect and
5 arbitrary application of the USDA attribution regulations, should be set aside and
6 USDA should be Ordered to tender the aforementioned payments to the Plaintiffs.
7 Defendants' determination that the Plaintiffs participated in any act in violation of
8 the CFAP regulations is arbitrary, capricious, and contrary to law. *See* 5 U.S.C. §
9 706(2).

10 45. Plaintiffs now seek reversal of the Defendants' adverse CFAP
11 eligibility determinations. The determinations adverse to Plaintiffs were not
12 consistent with the laws and regulations promulgated by the Agency for determining
13 CFAP eligibility. The Agency has, in effect, crafted a unique and arbitrary
14 explanation for denying Plaintiffs CFAP payments. The Agency based its initial
15 determination (and subsequent determinations) on an incorrect application of the
16 laws and regulations related to CFAP eligibility. The applicable laws and
17 regulations do not specifically address, for the purpose of determining attribution of
18 payments (1) the classification of producers and program-recipients as first-tier legal
19 entities and (2) the classification of a pass-through entity as a "level of ownership."
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1 As such, the Agency's determination will be shown to be erroneous, arbitrary,
2 capricious, and unsupported by substantial evidence of record.

3 **B. Declaratory Relief**

4 46. An actual controversy has arisen and now exists between Plaintiffs and
5 the Defendants concerning their respective rights and duties under the CFAP
6 payments and applicable statutes and regulations. Plaintiffs contend that it was
7 eligible to receive CFAP payments in 2020. USDA denies this contention.

8 47. The Plaintiffs request a judicial determination of the rights and duties
9 of the Parties relevant to the aforementioned contractual provisions and applicable
10 regulations as well as a declaration from the Court as to the parties rights and duties
11 relative to same.

12 48. This case is justiciable because the Defendants' failure to comply with
13 the applicable law regarding CFAP payments is the direct result of final agency
14 action that has caused and will continue to cause immediate and concrete injury to
15 Plaintiffs. The Plaintiffs are presently and continuously injured by the Adverse
16 Determination by USDA. A declaratory judgment is necessary and appropriate at
17 this time.

C. Injunctive Relief

49. Plaintiffs will be irreparably harmed if this Court does not issue an Order enjoining the Defendants from withholding 2020 CFAP payments from the Plaintiffs. The USDA's current position constitutes a present and continuous injury.

50. Plaintiffs have no plain, speedy, or adequate remedy at Law.

51. If not enjoined by this Court, the Defendants will continue to maintain their position in derogation of Plaintiffs' rights.

52. As a result, Injunctive Relief is appropriate.

D. Constitutional Violation (Due Process)

53. The adverse administrative action complained of in this case are based primarily on conclusions that are not clearly based on the text of Federal Law or regulation. An examination of federal law and applicable regulations governing the administration of CFAP payments, show that the Defendants' position is not based on published regulations or program rules.

54. Plaintiffs had no fair warning as to the Defendants' position on the proper "attribution" of program payments. The Defendants did not publish such standards. The lack of notice or "fair warning" of a potential violation of administrative law necessarily implicates Constitutional principles of due process under the Law.

1 55. “A fundamental tenet of due process is that to be sanctioned one must
2 have received fair notice that one’s allegedly violative conduct was prohibited.”
3 *Coffman v. Trickey*, 884 F.2d 1057 (C.A.8 (Mo.), 1989) *See also Grayned v. City of*
4 *Rockford*, 408 U.S. 104, 108 (1972); *Wright v. Arkansas Activities Association*, 501
5 F.2d 25, 28-29 (8th Cir.1974). In the present case, the Defendants have financially
6 punished Plaintiffs, by barring them from receipt of CFAP payments, because of
7 Defendants’ incorrect determination that ownership in the Plaintiffs did not vest in
8 individuals at the “fourth level” of ownership. It simply cannot be overstated that
9 there is no provision under Federal law or applicable regulations that can explain the
10 Defendants’ classification of the Plaintiffs as a first-tier level of ownership for
11 payment attribution purposes or Defendants’ classification of Price Cold Storage
12 Holdings, LLC BM Land Co., LLC, and BM Administrative Services, Inc. as legal
13 entities. There is no basis for excluding Plaintiffs from CFAP payments under
14 Federal Law or Federal Regulations.

15 56. In the case at hand, the Plaintiffs could not have determined by
16 reviewing the regulations and other public statements of the Agency that the Agency
17 would incorrectly determine ownership in the Plaintiffs did not vest in individuals at
18 the “fourth level” of ownership or that certain entities would be considered “legal
19 entities” or “levels of ownership” for the purposes of attributing CFAP payments.
20 USDA Rules and Regulations did not provide “fair warning” that the Plaintiffs
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1 would be punished for such conduct, and the application of such an unwritten
2 standard to Plaintiffs by the National Appeals Division violates the Plaintiff's
3 Constitutional Due Process protections.

4 57. Defendants have thereby violated Plaintiffs' due process rights under
5 the Fifth and Fourteenth Amendments to the United States Constitution. The
6 Plaintiffs ask this Court to rule the Agency determination that Plaintiffs were
7 ineligible to receive CFAP payments null and void, and without legal effect.

8 **VI. PRAYER FOR RELIEF**

9 WHEREFORE, the Plaintiffs, pray for Judgment as follows:

- 10 a) A declaration that the Plaintiffs are eligible to receive CFAP
11 payments for the year 2020;
- 12 b) An Order setting aside the adverse determinations of USDA that the
13 Plaintiffs were not eligible to receive all available CFAP payments
14 in 2020;
- 15 c) An Order requiring the Defendants to re-calculate the CFAP
16 payments owed to the Plaintiffs;
- 17 d) An Order enjoining Defendants from withholding the Plaintiffs'
18 2020 CFAP payments from the Plaintiffs;
- 19 e) An award of attorney's fees, expenses, and costs; and
- 20 f) For all such other relief as the Court deems just and proper.
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EXECUTED at Yakima, Washington this 1st day of August, 2022.

STOKES LAWRENCE
VELIKANJE MOORE & SHORE

By: /s/ Brendan V. Monahan

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